UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
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IVAN BONNER,

                                        Petitioner,

            v.   9:07-CV-0399
                                                                        (NAM)(DEP)
ROBERT E. ERCOLE, Supt.,
Green Haven Correctional Facility,

                                        Respondent.
_____
APPEARANCES: OF COUNSEL:

IVAN BONNER
Petitioner, *pro se*

Office of the Attorney General   ALYSON J. GILL, ESQ.
State of New York   Assistant Attorney General
Attorney for Respondent

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER

        Presently before this Court is a motion for discovery from *pro se* petitioner Ivan

Bonner. Dkt. No. 9. By his motion, petitioner seeks an affidavit filed in New York state

court by Assistant District Attorney Francisco Calderon on October 31, 2005, in support

of a requested court order to produce petitioner at the trial of his co-defendant. Dkt. No.

9. This affidavit is sought by petitioner in support of the claim asserted in his habeas

corpus petition that his production at the Albany County Court for his co-defendant's

trial violated the terms of his April 8, 2003 plea agreement. See Dkt. No. 1 at 5.[1]

        In response to petitioner's motion, counsel for the respondent "takes no position

on whether petitioner has demonstrated good cause" for the requested discovery, but

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        [1]   Petitioner asserts several claims in support of his habeas petition. A
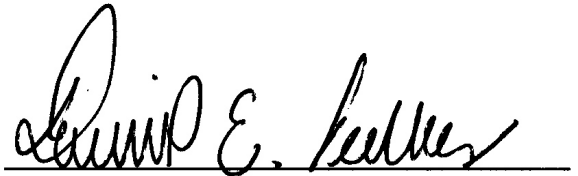response to the petition was filed on February 11, 2008. Dkt. Nos. 15, 16.

states that a copy of the requested affidavit will be provided to the petitioner. Dkt. No.

19 at ¶ 8.[2]

Accordingly, it is hereby

ORDERED, that petitioner's request for discovery (Dkt. No. 9) is DENIED as

moot, and it is further

ORDERED, that the Clerk strike respondent's submission in opposition to

petitioner's discovery request (Dkt. No. 12) from the docket in this action, and it is

further

ORDERED, that the Clerk serve a copy of this Order on the parties.

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David E. Peebles
U.S. Magistrate Judge

Dated: March 11, 2008
        Syracuse, New York

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[2] Counsel asks that a previously filed response to petitioner's discovery request (Dkt. No. 12) be disregarded and the Clerk is directed to strike that response from the record.